



NEWS RELEASE

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*A public copy of this indictment (in .pdf format) is available on-line at
www.usdoj.gov/usao/mow/news2005/albers_superseding_indictment.pdf*

**GRAND JURY RETURNS ADDITIONAL CHARGES,
\$10 MILLION FORFEITURE AGAINST
PHARMACEUTICAL DISTRIBUTORS INDICTED
FOR \$42 MILLION LIPITOR SMUGGLING, COUNTERFEITING**

KANSAS CITY, Mo. – Todd P. Graves, United States Attorney for the Western District of Missouri, announced that a federal grand jury returned additional charges today against two individuals and a business that were previously indicted for participating in a \$42 million dollar conspiracy to sell counterfeit, illegally imported and misbranded Lipitor and other drugs, and for participating in a conspiracy to sell stolen drugs.

Today's superseding indictment, Graves explained, contains all the charges in the original indictment but adds mail fraud, wire fraud and conspiracy charges against some of the co-defendants and seeks \$10 million in criminal forfeiture.

Douglas C. Albers, 54, of Leawood, Kan., **Paul Louis Kriger**, 48, of Thousand Oaks, Calif., and **Albers Medical Distributors, Inc.**, a Missouri corporation owned and operated by **Albers**, were charged in a superseding indictment returned by a federal grand jury in Kansas City. Today's superseding indictment also includes the co-defendants and charges contained in the original indictment, which it replaces.

Mail Fraud

Counts Fifty-Four and Fifty-Five of the superseding indictment allege two counts of mail fraud in connection with more than \$115,000 in secret kickbacks and commissions that were paid by **Albers**, **Kriger** and **Albers Medical Distributors**. The alleged secret kickbacks and commissions were cited in the original indictment, Graves explained, but were not charged as

separate criminal offenses.

According to today's superseding indictment, **Albers** and **Kruger**, acting on behalf of **Albers Medical Distributors**, negotiated a contract with **Christopher W. Lamoreaux**, 36, acting on behalf of NuCare Pharmaceuticals, Inc., a California business that repackaged drugs and acted as a wholesale drug distributor. **Lamoreaux**, who served as vice president of operations and later as president and chief executive officer of NuCare, negotiated an agreement to repackage Bextra and Lipitor. **Lamoreaux** is a co-defendant in the original indictment but is not charged in this count of the superseding indictment.

Albers and **Kruger**, through **Albers Medical Distributors**, allegedly paid secret commissions and kickbacks to **Lamoreaux** that were funneled through his own business, Consulting Ventures LLC. **Lamoreaux** did not disclose these payments to NuCare, the indictment alleges, nor did he disclose to NuCare that he personally profited from the Bextra and Lipitor repackaging agreements he had negotiated on behalf of NuCare. The indictment alleges that **Albers** and **Kruger** knew **Lamoreaux** was breaching his fiduciary duty to act in the best interests of NuCare.

Counts Fifty-Four and Fifty-Five each allege a separate instance in which **Albers** and **Kruger**, acting on behalf of **Albers Medical Distributors**, mailed checks to **Lamoreaux**. A \$6,815 check was dated Feb. 7, 2003, and a \$108,463 check was dated March 26, 2003.

Wire Fraud

Counts Fifty-Six through Sixty-One of the superseding indictment allege six separate acts of wire fraud in connection with more than \$400,000 in secret kickbacks and commissions that were paid by **Albers**, **Kruger** and **Albers Medical Distributors**. The alleged secret kickbacks and commissions were cited in the original indictment, Graves explained, but were not charged as separate criminal offenses.

According to today's superseding indictment, **Albers** and **Kruger**, acting on behalf of **Albers Medical Distributors**, negotiated a contract with Diana S. Coelyn, acting on behalf of **H.D. Smith, Inc.**, d/b/a Smith Medical Partners, a wholesale drug distributor headquartered in Illinois. Coelyn was employed by **Smith** and was responsible for making agreements on behalf of **Smith** for the purchase of drugs in the secondary wholesale market. Under the terms of the agreement that Coelyn negotiated with **Albers Medical Distributors**, **Smith** purchased repackaged Celebrex, Bextra and Lipitor from **Albers Medical Distributors**. Coelyn was charged in a separate but related case.

According to the superseding indictment, Coelyn, aided and abetted by **Albers**, **Kruger** and **Albers Medical Distributors**, engaged in a fraudulent scheme to deprive **Smith** of the right of Coelyn's honest, faithful and loyal services. The indictment alleges that Coelyn, **Albers**, **Kruger** and **Albers Medical Distributors** concealed the fact that **Albers**, **Kruger** and **Albers Medical Distributors** paid Coelyn more than \$400,000 in secret commissions and kickbacks. The indictment alleges that **Albers** and **Kruger** knew Coelyn was breaching her fiduciary duty to

act in the best interests of **Smith**.

Counts Fifty-Six through Sixty One of the superseding indictment allege six separate instances in which money was electronically transferred to Coelyn.

Conspiracy to Commit Mail Fraud

Count Sixty-Two of today's superseding indictment alleges that **Albers** and **Kriger** participated in a conspiracy to commit mail fraud in association with the sale of the counterfeit, illegally imported, misbranded and unapproved new drugs. The indictment alleges that between February 2002 and April 2003, **Albers** and **Kriger** conspired with Julio Cesar Cruz and others to commit mail fraud. Cruz was charged in a separate but related case.

According to the superseding indictment, co-conspirators used United Parcel Service to send and deliver counterfeit, misbranded, illegally imported and unapproved new drugs across state lines from Florida to other locations in the United States. Those shipments, the indictment alleges, included seventeen deliveries to **Med-Pro, Inc.**, in Nebraska and Nu-Care Pharmaceuticals in California. **Med-Pro** is a co-defendant in the original indictment but is not charged in this count of the superseding indictment.

Forfeiture

Count Sixty-Three of today's superseding indictment is a forfeiture count, which would require **Albers** and **Kriger** to forfeit to the government any property derived from the proceeds of the mail fraud that is alleged in Count Sixty-Two. According to the indictment, the amount of money derived from the proceeds traceable to the alleged mail fraud is \$10 million.

This indictment marks the culmination of an investigation that began in 2002, Graves said. In the course of this investigation, **Albers** – at the urging of the Food and Drug Administration – initiated a recall of more than 18 million Lipitor tablets, which Graves described as “perhaps the largest recall in the history of criminal investigations of counterfeit medications.”

Today's superseding indictment contains all the original co-defendants and charges that were included in the original indictment.

Lamoreaux, Michael Allyn Carlow, 53, of Fort Lauderdale, Fla., **Richard K. Rounsborg**, 47, of Kearney, Neb., **Med-Pro, Inc.**, a Nebraska corporation owned and operated by **Rounsborg**, **Noah Salcedo-Smith**, 34, of San Fernando, Calif., **H.D. Smith Wholesale Drug Company**, an Illinois corporation, **Frank Anthony Ianeillo**, 61, of Stillwater, Penn., **Gary Wayne Smith**, 37, of Mobile, Ala., **Albert David Nassar**, 50, of New York, N.Y., **Salvatore A. Esposito**, 47, of Staten Island, N.Y., and **Alexander Anthony Nassar**, 42, of Miami, Fla., were also charged in the original indictment returned by a federal grand jury on Aug. 31, 2005.

Among the charges contained in the original indictment:

Counterfeit, Illegally Diverted Lipitor

The federal indictment alleges that **Albers, Albers Medical Distributors, Kriger, Carlow, Salcedo-Smith, Lamoreaux, Rounsborg, Med-Pro, H.D. Smith Wholesale Drug Company, and Alexander Nassar** participated in a conspiracy to purchase and sell counterfeit, misbranded, and illegally imported drugs from February 2002 until at least April 2003. Co-conspirators, with the intent to defraud and mislead, allegedly caused the manufacture, importation, labeling, and repackaging of certain drugs, caused the misbranding and counterfeiting of certain drugs, and sold certain misbranded and counterfeited drugs.

According to the indictment, this was a two-pronged conspiracy: First, co-conspirators purchased genuine Lipitor and Celebrex intended for distribution in South America and illegally imported it into the United States. Graves explained that this is known as diversion.

Second, co-conspirators allegedly bought chemicals and equipment – including punches and dies purchased from a St. Louis, Mo.-area company and counterfeit drug labels purchased from a Miami, Fla.-area company – which they shipped to Costa Rica to manufacture counterfeit Lipitor, which they then illegally imported into the United States. Co-conspirators commingled the illegally imported Lipitor with the counterfeit Lipitor, Graves added, and sold it in the United States.

This was accomplished by, among other things, making false and fraudulent representations to the U.S. Customs Service. Co-conspirators also created false pedigrees for the drugs. Graves explained that, under federal law, wholesalers must furnish their buyers with a written statement identifying the persons and entities from whom the drug was purchased. Within the wholesale drug industry, this written statement is referred to as a pedigree.

Stolen Drugs

The federal indictment alleges that **Albers, Albers Medical Distributors, Kriger, Carlow, Salcedo-Smith, Ianeillo, Smith, Albert Nassar, Esposito and Alexander Nassar** participated in a conspiracy to buy, sell and traffic in stolen drugs from December 2001 to April 2003.

The federal indictment alleges that co-conspirators purchased and sold among themselves drugs that they knew were stolen, that they created false pedigrees to conceal the fact that the drugs were stolen, and that they sold the stolen drugs in interstate commerce, knowing that consumers ultimately would purchase the stolen drugs.

Counterfeit Serostim

The federal indictment alleges that **Albers, Albers Medical Distributors and Kriger** sold counterfeit Serostim to various wholesale distributors from Sept. 7 to Nov. 15, 2000. Serostim, Graves explained, is an injectable human growth hormone manufactured by Serono,

Inc., for the treatment of cachexia, including AIDS-related wasting.

Counterfeit Neupogen

The federal indictment alleges that **Albers, Albers Medical Distributors** and **Kruger** sold counterfeit Neupogen to various wholesale distributors from April 5 to Sept. 25, 2001. Neupogen, Graves explained, is an injectable human granulocyte colony stimulating factor used to stimulate the production of white blood cells in order to decrease the incidence of infections in persons with lowered immune systems, such as cancer patients receiving chemotherapy.

Counterfeit Procrit

The federal indictment alleges that **Albers, Albers Medical Distributors** and **Kruger** sold counterfeit Procrit in March 2003. Procrit, Graves explained, is an injectable drug used in the treatment of anemia in patients with chronic renal failure and AIDS.

Graves cautioned that the charges contained in the indictment are simply accusations, and not evidence of guilt. Evidence supporting the charges must be presented to a federal trial jury, whose duty is to determine guilt or innocence.

This case is being prosecuted by Senior Litigation Counsel Gene Porter. It was investigated by the Office of Criminal Investigations, U.S. Food and Drug Administration.

This news release, as well as additional information about the office of the United States Attorney for the Western District of Missouri, is available on-line at

www.usdoj.gov/usao/mow